



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA ELECTRONIC MAIL MESSAGE

hadams@bulkchemicals.us

FEB 06 2020

Mr. Harry Adams
President/Chief Operating Officer
Bulk Chemicals, Inc.
809 Mohrsville Road
Mohrsville, PA 19541

**Re: EPCRA/CERCLA Post-Inspection Letter
Bulk Chemicals, Inc. located at 809 Mohrsville Road in Mohrsville, PA
Case Number 03-PA-2019-019**

Dear Mr. Adams:

The United States Environmental Protection Agency, Region III ("EPA") would like to thank you for providing the opportunity to inspect the Bulk Chemicals, Inc. facility located at 809 Mohrsville Road in Mohrsville, PA ("Bulk Chemicals" or "Facility") on July 25, 2019. EPA's inspection was conducted to ensure regulatory compliance with Sections 302-312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA") and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA").

As you may already be aware, EPA has the authority under Section 109 of CERCLA, as amended, 42 U.S.C. § 9609, to pursue civil penalties for violations of the emergency notification requirements found at 40 C.F.R. Part 302.6. Additionally, EPA has the authority under Section 325 of EPCRA, 42 U.S.C. § 11045, to pursue civil penalties for violations of the emergency planning and notification requirements found at 40 C.F.R. Part 355 and the hazardous chemical reporting requirements found at 40 C.F.R. Part 370. EPA noted the following potential violations of some of these requirements during the inspection of the Facility:

- 1) Failure of the Facility to provide an emergency planning notification to the State Emergency Response Commission ("SERC") and the Local Emergency Planning Committee ("LEPC") in accordance with 40 C.F.R. Part 355.20. Specifically, the Facility has present on-site three (3) Extremely Hazardous Substances ("EHSs"), hydrofluoric acid, nitric acid, and sulfuric acid, in quantities equal to or greater than their Threshold Planning Quantities ("TPQs"). The SERC, the Pennsylvania Emergency Management Agency ("PEMA") in this case, indicated to EPA in a Certified Statement dated January 31, 2020 that it does have a response on file concerning your status as an emergency planning facility; however, the LEPC indicated to EPA in a Certified Statement dated July 18, 2019 that it does not have a



response on file concerning your status as an emergency planning facility.

- 2) Failure of the Facility to designate a Facility Emergency Coordinator ("FEC") and identify this person to the LEPC in accordance with 40 C.F.R. Part 355.20. Specifically, since the Facility is subject to the emergency planning notification requirements of 40 C.F.R. Part 355.20, then it must designate a FEC and identify this person to the LEPC. The Facility indicated during the inspection that FEC information is contained in the annual Tier II report submissions. The LEPC indicated to EPA in a Certified Statement dated July 18, 2019 that it does not have a response on file identifying the FEC.
- 3) Failure of the Facility to immediately notify the National Response Center ("NRC") of a reportable release in accordance with 40 C.F.R. Part 302.6(a). Specifically, the Facility did not immediately notify the NRC of the June 9, 2019 release of nitric acid after having knowledge that it exceeded the reportable quantity ("RQ").
- 4) Failure of the Facility to immediately notify the SERC of a reportable release in accordance with 40 C.F.R. Parts 355.40-355.43. Specifically, the Facility did not immediately notify PEMA, in this case, of the June 9, 2019 release of nitric acid after having knowledge that it exceeded the RQ. The SERC has indicated to EPA in a Certified Statement dated January 31, 2020 that it does not have a response on file regarding this release of nitric acid.
- 5) Failure of the facility to immediately notify the LEPC of a reportable release in accordance with 40 C.F.R. Parts 355.40-355.43. Specifically, the Facility did not immediately notify the Berks County Department of Emergency Services of the June 9, 2019 release of nitric acid after having knowledge that it exceeded the RQ. The LEPC has indicated to EPA in a Certified Statement dated July 18, 2019 that it does not have a response on file regarding this release of nitric acid.
- 6) Failure of the Facility to submit written, follow-up reports to the SERC and LEPC as soon as practicable following a reportable release in accordance with 40 C.F.R. Parts 355.40-355.43. Specifically, the Facility stated during the inspection that it did not submit written, follow-up reports to the SERC or LEPC concerning the June 9, 2019 release of nitric acid. The SERC has indicated in a Certified Statement dated January 31, 2020 that it did receive a written, follow-up report on August 15, 2019 which was over two months from the release date. The LEPC has indicated in a Certified Statement dated July 18, 2019 that they did not have a response on file regarding this release of nitric acid.
- 7) Failure of the Facility to provide a Material Safety Data Sheet ("MSDS") or Safety Data Sheet ("SDS") for each required hazardous chemical, or a list of such chemicals that require MSDSs or SDSs, to the LEPC and local fire department in accordance with 40 C.F.R. Part 370.30. Specifically, the Facility stored six (6) hazardous chemicals (hydrofluoric acid, nitric acid, phosphoric acid, potassium hydroxide, sodium hydroxide, and sulfuric acid) on-site above the reporting threshold during calendar years 2016 and 2017, and seven (7) hazardous chemicals (chromic acid, hydrofluoric acid, nitric acid, phosphoric acid, potassium hydroxide, sodium

hydroxide, and sulfuric acid) during calendar year 2018. The LEPC indicated in a Certified Statement dated July 18, 2019 that it has not received a submission pursuant to Section 311 of EPCRA. To date, it remains unclear as to whether the Facility has provided a submission pursuant to Section 311 of EPCRA to the local fire department, as required.

- 8) Failure of the Facility to timely submit a complete and accurate hazardous chemical inventory form (i.e. Tier II report) in accordance with 40 C.F.R. Part 370.40 for calendar year 2016 by March 1, 2017. Specifically, EPA found that the Facility stored six (6) hazardous chemicals on-site in quantities greater than their TPQs. The Facility is therefore required to annually and timely submit Tier II Inventory Forms to the SERC, LEPC and local fire department. The LEPC has indicated to EPA in a Certified Statement dated July 18, 2019 that they do not have a response on file concerning the submission of a Tier II report for calendar year 2016. To date, it remains unclear as to whether the Facility has provided the Tier II report to the local fire department, as required.
- 9) Failure of the Facility to timely submit a complete and accurate hazardous chemical inventory form (i.e. Tier II report) in accordance with 40 C.F.R. Part 370.40 for calendar year 2017 by March 1, 2018. Specifically, EPA found that the Facility stored six (6) hazardous chemicals on-site in quantities greater than their TPQs. The Facility is therefore required to annually and timely submit Tier II Inventory Forms to the SERC, LEPC and local fire department. The LEPC has indicated to EPA in a Certified Statement dated July 18, 2019 that they do not have a response on file concerning the submission of a Tier II report for calendar year 2017. To date, it remains unclear as to whether the Facility has provided the Tier II report to the local fire department, as required.
- 10) Failure of the Facility to submit a complete and accurate hazardous chemical inventory form (i.e. Tier II report) in accordance with 40 C.F.R. Part 370.40 for calendar year 2018 by March 1, 2019. Specifically, EPA found that the Facility stored seven (7) hazardous chemicals on-site in quantities greater than their TPQs. The Facility is therefore required to annually and timely submit Tier II Inventory Forms to the SERC, LEPC and local fire department. The LEPC has indicated to EPA in a Certified Statement dated July 18, 2019 that they do not have a response on file concerning the submission of a Tier II report for calendar year 2018. To date, it remains unclear as to whether the Facility has provided the Tier II report to the local fire department, as required.

EPA is currently evaluating its enforcement options to address the aforementioned potential violations. In the interim, EPA expects the Facility to fully comply with its obligations under EPCRA, specifically to: 1) provide the LEPC with an emergency planning notification, if said notification has not already been submitted, and designate a FAC 2) provide MSDSs/SDSs to the LEPC and local fire department, if not already done so 3) evaluate the quantities of hazardous chemicals present on-site during calendar years 2016, 2017, and 2018 and submit Tier II reports to the LEPC and local fire department, as necessary 4) provide a follow-up written report to the LEPC regarding the release of nitric acid that took place on June 9, 2019 and 5) make appropriate changes internally to prevent recurrence of the above-described compliance

issues. Within **twenty-one (21) days** of your receipt of this letter, please provide a written response (with supporting documentation, as available) that the above-described compliance issues observed at the Facility have been corrected.

Please be advised that this letter does not constitute a waiver, suspension or modification of the requirements of EPCRA, or any regulations promulgated or enforcement authority thereunder. Further, nothing herein shall be construed to limit the authority of EPA to undertake action against any person in response to any condition which EPA determines may present a hazard, or an imminent and substantial endangerment to the public health, public welfare or the environment.

Should you have any questions, please contact Theresa Gallagher, EPCRA Coordinator, at (215) 814-2923. All correspondence should be sent to Ms. Gallagher's attention at the following address: USEPA, 1650 Arch Street (3ED12), Philadelphia, PA 19103.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael J. Dunn", with a stylized flourish at the end.

Michael J. Dunn, Chief
Data, Support, and Prevention Branch
Enforcement and Compliance Assurance Division

cc: Ms. Lara Hege (PA Department of Labor & Industry, PENNSAFE Program)
Mr. Michael Manley (Pennsylvania Emergency Management Agency)
Ms. Megan Young-Kraft (Berks County Department of Emergency Services)